

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED
MAY 31 2017
Clerk, U.S. District Court
District Of Montana
Billings

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LANCE LEWIS,

Defendant.

Cause No. CR 08-91-BLG-SPW

ORDER DISMISSING § 2255
MOTION AND DENYING
CERTIFICATE OF APPEALABILITY

This matter comes before the Court on Defendant Lewis's motion to dismiss the indictment. Lewis contends that the House of Representatives did not properly pass the law giving this Court jurisdiction over criminal offenses. Lewis is a federal prisoner proceeding pro se.

As Lewis has been advised, *see* Order (Doc. 49), Order (Doc. 56), an attempt to challenge the validity of the criminal judgment is a motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255. This Court has no jurisdiction to entertain a second § 2255 motion from Lewis unless the Court of Appeals authorizes him to file one. *See Burton v. Stewart*, 549 U.S. 147, 149 (2007) (per curiam); 28 U.S.C. §§ 2255(h), 2244(b)(3); *see also* Order (Doc. 49) at 1-2.

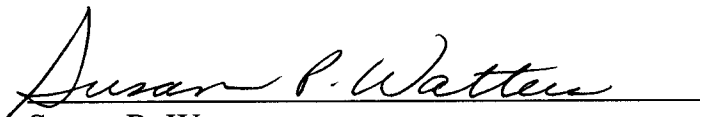
A certificate of appealability is not warranted because this case is clearly

controlled by *Burton*.

Accordingly, IT IS HEREBY ORDERED as follows:

1. Lewis's motion to dismiss the indictment, recharacterized as a motion under 28 U.S.C. § 2255 (Doc. 64), is DISMISSED for lack of jurisdiction as an unauthorized second § 2255 motion.
2. A certificate of appealability is DENIED.
3. The clerk shall open a civil case to reflect the recharacterization of Lewis's motion as a motion under 28 U.S.C. § 2255 and shall close the civil file by entering a judgment of dismissal.

DATED this 31st day of May, 2017.

A handwritten signature in cursive script, reading "Susan P. Watters", written over a horizontal line.

Susan P. Watters
United States District Court